

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1714**

**Introduced by Assembly Member Plescia**

February 22, 2005

---

An act to amend Sections 180.1, 180.7, 188.5, and 31010 of, to add Sections ~~31010.1, 31010.2, and 31074~~ *Section 31010.1* to, and to repeal Sections 31015 and 31070 of, the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1714, as amended, Plescia. Bay Area state-owned toll bridges: financing of seismic repair and replacement.

(1) Existing law estimates the cost to seismically retrofit the state-owned toll bridges and to replace the east span of the San Francisco-Oakland Bay Bridge at \$4,637,000,000, including \$2,600,000,000 for the east span replacement. Existing law identifies funding to be made available for this purpose from various funding sources, including a \$1 per vehicle toll surcharge on Bay Area state-owned toll bridges and Proposition 192 seismic repair bond funds, among other sources.

This bill would revise the estimated cost of the state-owned toll bridge seismic retrofit and replacement program to ~~\$7,105,000,000~~ \$7,204,000,000, including ~~\$4,830,000,000~~ \$4,929,000,000 for the replacement east span of the San Francisco-Oakland Bay Bridge and revised amounts for certain other toll bridges. The bill would identify \$300,000,000 in additional state funds from various sources to fund the demolition costs of the replaced east span of the San Francisco-Oakland Bay Bridge. The bill would delete provisions

requiring the replacement east span to be built incorporating a specific single tower cable suspension design *and would instead specify a skyway design. The bill would apportion project costs in excess of \$7,204,000,000 but not exceeding \$7,913,000,000 between the Bay Area Toll Authority, an entity governed by the same board as the Metropolitan Transportation Commission (MTC), and the Department of Transportation from specified sources.* The bill would require any remaining additional funds required to complete the program *in excess of \$7,913,000,000 to be paid for by apportioned 75% to the Metropolitan Transportation Commission (MTC) from various sources the Bay Area Toll Authority and 25% to the department, and would identify various sources of funding to meet those obligations.*

(2) Existing law specifies the powers and duties of the Department of Transportation, MTC, and the Bay Area Toll Authority with respect to state-owned Bay Area bridge toll revenue and expenditure, and the financing of the toll bridge seismic retrofit and replacement program.

*This bill would increase the existing \$1 per vehicle seismic retrofit surcharge to \$2 effective July 1, 2008, on the state-owned Bay Area toll bridges. The bill would provide*~~that~~ *MTC may meet its funding obligations pursuant to (1) above by allocating any eligible state and federal funds available for allocation by MTC, adopting an increased bonding limit for the existing \$1 seismic retrofit toll surcharge, restructuring any existing toll bridge debt, allocating resources made available from the Regional Measure 1 \$1 toll increase approved by Bay Area voters in 1988 or from the Regional Measure 2 \$1 toll increase approved by Bay Area voters in June 2004, or by imposing an additional seismic toll surcharge increase.* The bill would authorize MTC to implement these provisions,~~and would authorize MTC to implement tolls using value or variable pricing.~~ The bill would extend the financing plan for certain existing toll revenues from 30 to 40 years. The bill would delete provisions limiting the revenue generated by the seismic toll surcharge to \$907,000,000. The bill would make changes to reporting requirements by the department regarding the toll bridge projects and would enact other related provisions.

(3) Existing law sets forth requirements for the solicitation and evaluation of bids and the awarding of contracts by public entities for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement. Existing law also authorizes specified state agencies, cities, and counties to

implement alternative procedures for the awarding of contracts on a design-build basis.

This bill would authorize the Department of Transportation to award contracts for toll bridge seismic retrofit and replacement work under any acquisition method approved by the Secretary of the Business, Transportation and Housing Agency as being in the best interest of the state, ~~including design-sequencing, design-build, and best value, and would delete requirements for the bridge projects to be performed under contracts awarded to the lowest responsible bidder. The bill would also authorize the department to implement a specified design-build contracting process for the purposes of that program. Under these provisions, a contractor would be required to make certain declarations that the information submitted by the contractor has been prepared with reasonable diligence and is true and complete. A certification of a material matter that is known to be false would be a misdemeanor, thereby creating a new crime.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Following the partial collapse of the east span of the San
- 4 Francisco-Oakland Bay Bridge as a result of the 1989 Loma
- 5 Prieta earthquake, legislation was enacted to make seismic safety
- 6 a top transportation priority in the state.
- 7 (b) The San Francisco-Oakland Bay Bridge is a key element of
- 8 the state's transportation infrastructure and a lifeline structure for
- 9 the San Francisco Bay Area.
- 10 (c) The bridge is of critical economic significance for local,
- 11 regional, and state commerce.

1 (d) Work on a replacement structure of the east span is now  
2 underway but cost increases have exceeded previously  
3 committed funds.

4 (e) The site of the east span is located between two major  
5 historically active earthquake faults.

6 (f) It is the intent of the Legislature that the work on the east  
7 span be completed as expeditiously as possible and that  
8 additional funding be provided to complete the work in the most  
9 effective and timely fashion to ensure public safety and economic  
10 well-being.

11 (g) Myriad complexities have arisen due to the self-anchored  
12 suspension design required by statute. These complexities  
13 threaten to delay ultimate delivery of a completed bridge and also  
14 threaten to add even further costs to the project.

15 (h) The skyway design, recommended by the Governor, is a  
16 more conventional bridge design. It holds the promise of an  
17 earlier delivery date at lower costs. The skyway design offers the  
18 highest potential to reduce the overall cost of the toll bridge  
19 program.

20 SEC. 2. Section 180.1 of the Streets and Highways Code, as  
21 amended by Section 7 of Chapter 310 of the Statutes of 1995, is  
22 amended to read:

23 180.1. (a) Projects under this article shall not be subject to  
24 the provisions of Chapter 1 (commencing with Section 10100) of  
25 Part 2 of Division 2 of the Public Contract Code, except the  
26 following:

27 (1) Article 1.5 (commencing with Section 10115) of Chapter 1  
28 of Part 2 of Division 2 of the Public Contract Code, as to projects  
29 not subject to the provisions of Part 23 of Title 49 of the Code of  
30 Federal Regulations.

31 (2) Section 10128 of the Public Contract Code.

32 (3) Article 9 (commencing with Section 10280) of Chapter 1  
33 of Part 2 of Division 2 of the Public Contract Code.

34 (4) Article 10 (commencing with Section 10285) of Chapter 1  
35 of Part 2 of Division 2 of the Public Contract Code.

36 (b) Projects undertaken by a local agency under this article  
37 shall not be subject to the Local Agency Public Construction Act  
38 (Chapter 1 (commencing with Section 20100) of Part 3 of  
39 Division 2 of the Public Contract Code).

~~(c) Projects under this article may be performed under a contract awarded by any acquisition method proposed by the department including, but not limited to, design-sequencing, design-build, and best value, with the Notwithstanding any provision of the Public Contract Code, projects under this article may be performed under a contract awarded by any acquisition method proposed by the department, upon approval of the Secretary of the Business, Transportation and Housing Agency as being in the best interest of the state.~~

~~(d) The department may include incentives or disincentives, or both, to encourage completion of any contracts awarded under this section.~~

~~(e) The Department of Transportation shall report within 60 45 days of the end of each calendar quarter to the Joint Legislative Budget Committee and the committees in each house of the Legislature that consider transportation issues regarding the department's progress toward completion of seismic safety retrofit projects.~~

SEC. 3. Section 180.7 of the Streets and Highways Code is amended to read:

180.7. This article shall remain in effect only until the date the Director of Transportation certifies to the Secretary of Business, Transportation and Housing that all construction activities for the seismic retrofit or replacement of all state-owned toll bridges is complete *and as of that date is repealed*.

SEC. 4. Section 188.5 of the Streets and Highways Code is amended to read:

188.5. (a) The Legislature finds and declares all of the following:

(1) The department has determined that in order to provide maximum safety for the traveling public and to ensure continuous and unimpeded operation of the state's transportation network, six state-owned toll bridges are in need of a seismic safety retrofit, and one state-owned toll bridge is in need of a partial retrofit and a partial replacement.

(2) The bridges identified by the department as needing seismic retrofit are the Benicia-Martinez Bridge, the Carquinez Bridge, the Richmond-San Rafael Bridge, the San Mateo-Hayward Bridge, the San Pedro-Terminal Island Bridge

(also known as the Vincent Thomas Bridge), the San Diego-Coronado Bridge, and the west span of the San Francisco-Oakland Bay Bridge. The department has also identified the east span of the San Francisco-Oakland Bay Bridge as needing to be replaced. That replacement span will be safer, stronger, longer lasting, and more cost efficient to maintain than completing a seismic retrofit for the current east span.

(3) The south span of the Carquinez Bridge is to be replaced pursuant to Regional Measure 1, as described in subdivision (b) of Section 30917.

(4) The cost estimate to retrofit the state-owned toll bridges and to replace the east span of the San Francisco-Oakland Bay Bridge is seven billion ~~one hundred five million dollars (\$7,105,000,000)~~ *two hundred four million dollars (\$7,204,000,000)*, as follows:

(A) The Benicia-Martinez Bridge retrofit is one hundred eighty million dollars (\$180,000,000).

(B) The north span of the Carquinez Bridge retrofit is one hundred fifteen million dollars (\$115,000,000).

(C) The Richmond-San Rafael Bridge retrofit is nine hundred fourteen million dollars (\$914,000,000).

(D) The San Mateo-Hayward Bridge retrofit is one hundred sixty-five million dollars (\$165,000,000).

(E) The San Pedro-Terminal Island Bridge retrofit is fifty-nine million dollars (\$59,000,000).

(F) The San Diego-Coronado Bridge retrofit is one hundred five million dollars (\$105,000,000).

(G) The west span of the San Francisco-Oakland Bay Bridge retrofit, as a lifeline bridge, is seven hundred thirty-seven million dollars (\$737,000,000).

(H) Replacement of the east span of the San Francisco-Oakland Bay Bridge is four billion ~~eight hundred thirty million dollars (\$4,830,000,000)~~ *nine hundred twenty-nine million dollars (\$4,929,000,000)*. *The entire east span of the bridge is to be constructed using a skyway design.*

(b) It is the intent of the Legislature that the following amounts from the following funds shall be allocated until expended, for the seismic retrofit or replacement of state-owned toll bridges:

1 (1) Six hundred fifty million dollars (\$650,000,000) from the  
2 1996 Seismic Retrofit Account in the Seismic Retrofit Bond  
3 Fund of 1996 for the seven state-owned toll bridges identified by  
4 the department as requiring seismic safety retrofit or  
5 replacement.

6 (2) One hundred forty million dollars (\$140,000,000) in  
7 surplus revenues generated under the Seismic Retrofit Bond Act  
8 of 1996 that are in excess of the amount actually necessary to  
9 complete Phase Two of the state's seismic retrofit program.  
10 These excess funds shall be reallocated to assist in financing  
11 seismic retrofit of the state-owned toll bridges.

12 (3) Fifteen million dollars (\$15,000,000) from the Vincent  
13 Thomas Toll Bridge Revenue Account.

14 (4) The funds necessary to meet both of the following:

15 (A) A principal obligation of ~~two billion two hundred~~  
16 ~~eighty-two million dollars (\$2,282,000,000) from the seismic~~  
17 ~~retrofit surcharge, including any interest therefrom, imposed~~  
18 ~~pursuant to Section 31010, subject to the limitation set forth in~~  
19 ~~subdivision (e) and subdivision (b) of Section 31010.~~ *four billion*  
20 *five hundred forty-nine million dollars (\$4,549,000,000),*  
21 *together with all costs enumerated in subparagraph (B), to be*  
22 *funded from the seismic retrofit surcharge imposed pursuant to*  
23 *Section 31010, inclusive of proceeds of bonds secured thereby,*  
24 *and interest earnings thereon.*

25 (B) All costs of financing, including capitalized interest,  
26 reserves, costs of issuance, costs of credit enhancements and any  
27 other financial products necessary or desirable in connection  
28 therewith, and any other costs related to financing.

29 (5) Thirty-three million dollars (\$33,000,000) from the San  
30 Diego-Coronado Toll Bridge Revenue Fund.

31 (6) Not less than seven hundred forty-five million dollars  
32 (\$745,000,000) from the State Highway Account to be used  
33 toward the eight hundred seventy-five million dollars  
34 (\$875,000,000) state contribution, to be achieved as follows:

35 (A) (i) Two hundred million dollars (\$200,000,000) to be  
36 appropriated for the state-local transportation partnership  
37 program described in paragraph (7) of subdivision (d) of Section  
38 164 for the 1998–99 fiscal year.

1 (ii) The remaining funds intended for that program and any  
2 program savings to be made available for toll bridge seismic  
3 retrofit.

4 (B) A reduction of not more than seventy-five million dollars  
5 (\$75,000,000) in the funding level specified in paragraph (4) of  
6 subdivision (d) of Section 164 for traffic system management.

7 (C) Three hundred million dollars (\$300,000,000) in  
8 accumulated savings by the department achieved from better  
9 efficiency and lower costs.

10 (7) Not more than one hundred thirty million dollars  
11 (\$130,000,000) from the Transit Capital Improvement Program  
12 funded by the Public Transportation Account in the State  
13 Transportation Fund to be used toward the eight hundred  
14 seventy-five million dollars (\$875,000,000) state contribution. If  
15 the contribution in subparagraph (A) of paragraph (6) exceeds  
16 three hundred seventy million dollars (\$370,000,000), it is the  
17 intent that the amount from the Transit Capital Improvement  
18 Program shall be reduced by an amount that is equal to that  
19 excess.

20 (8) ~~(A)~~ Six hundred forty-two million dollars (\$642,000,000)  
21 from the state's share of the federal Highway Bridge  
22 Replacement and Rehabilitation (HBRR) Program.

23 ~~(B) If the project costs exceed seven billion one hundred five~~  
24 ~~million dollars (\$7,105,000,000), the department may program~~  
25 ~~not more than four hundred forty-eight million dollars~~  
26 ~~(\$448,000,000) in project savings or other available resources~~  
27 ~~from the Interregional Transportation Improvement Program, the~~  
28 ~~State Highway Operation and Protection Program, or federal~~  
29 ~~bridge funds for that purpose.~~

30 (9) Three hundred million dollars (\$300,000,000) in project  
31 savings or other available resources from the Interregional  
32 Transportation Improvement Program, the State Highway  
33 Operation and Protection Program, or federal bridge funds to  
34 fund the demolition of the replaced east span of the San  
35 Francisco-Oakland Bay Bridge.

36 ~~(10) Remaining funds sufficient to complete the seismic~~  
37 ~~retrofit of toll bridges, as identified in paragraph (2) of~~  
38 ~~subdivision (a), to be paid for by the Metropolitan Transportation~~  
39 ~~Commission.~~



(c) If the actual cost of retrofit or replacement, or both retrofit and replacement, of toll bridges is less than the cost estimate of seven billion one hundred five million dollars (\$7,105,000,000), there shall be a reduction in the amount provided in paragraphs (4) and (10) of subdivision (b) equal to the proportion of total funds committed to complete the projects funded from funds generated from paragraph paragraphs (4) and (10) of subdivision (b) as compared to the total funds from paragraphs (6), (7), (8), and (9) of subdivision (b), and there shall be a proportional reduction in the amount specified in paragraphs (8) and (9) of subdivision (b). *project costs exceed seven billion two hundred four million dollars (\$7,204,000,000), the Bay Area Toll Authority shall program two hundred sixty-one million dollars (\$261,000,000) from bond proceeds secured by the seismic retrofit surcharge. Upon the expenditure of the two hundred sixty-one million dollars (\$261,000,000), the department may program four hundred forty-eight million dollars (\$448,000,000) in project savings or other available resources from the Interregional Transportation Improvement Program, the State Highway Operation and Protection Program, or federal bridge funds for that purpose.*

(d) If the department determines, *and the Department of Finance concurs*, that the actual costs will exceed the amounts identified in ~~subparagraph (B) of paragraph (8) of subdivision (b)~~ *paragraph (4) of subdivision (a)*, the department shall report to ~~the Legislature within 90~~ *the Bay Area Toll Authority, the Legislature, and the Governor within 45* days from the date of that determination as to the difference and the reason for the increase in costs.

(e) *If actual costs exceed seven billion nine hundred thirteen million dollars (\$7,913,000,000), the obligation for providing the remaining funds necessary to complete the projects identified in paragraph (2) of subdivision (a) shall be apportioned 25 percent to the department and 75 percent to the Bay Area Toll Authority. The authority shall provide the funds required in a timely manner so as to prevent project construction delays. The department may meet its obligation under this subdivision by programming project savings or other available resources from the Interregional Transportation Improvement Program, the State Highway Operation and Protection Program, or federal bridge*

1 *funds for that purpose. The authority shall meet its obligations*  
2 *under this subdivision by using funds derived from the authority*  
3 *granted to the Metropolitan Transportation Commission*  
4 *pursuant to Section 31010.1.*

5 *(f) If the actual cost of projects identified in paragraph (2) of*  
6 *subdivision (a) of Section 188.5 is less than seven billion two*  
7 *hundred four million dollars (\$7,204,000,000), the department*  
8 *shall have the authority to use funds equivalent to the percentage*  
9 *of the sum of funds provided in paragraphs (1), (2), (6), (7), (8),*  
10 *and (9) of subdivision (b) compared to the total funding provided*  
11 *to complete projects identified in paragraph (2) of subdivision*  
12 *(a). The authority may use the remaining funds on projects*  
13 *identified in Sections 90313 and 90314.*

14 *(g) Notwithstanding any other provision of law, the*  
15 *commission shall adopt fund estimates consistent with*  
16 *subdivision (b) and provide flexibility so that state funds can be*  
17 *made available to match federal funds made available to regional*  
18 *transportation planning agencies.*

19 ~~(f)~~

20 *(h) For the purposes of this section, “principal obligations” are*  
21 *the amount of funds generated, either in cash, obligation*  
22 *authority, or the proceeds of a bond or other indebtedness.*

23 ~~(g)~~

24 *(i) (1) Commencing January 1, 2004, and quarterly thereafter*  
25 *until completion of all applicable projects, the department shall*  
26 *provide quarterly seismic reports to the transportation*  
27 *committees of both houses of the Legislature and to the*  
28 *commission for each of the toll bridge seismic retrofit projects in*  
29 *subdivision (a) no later than February 15, May 15, August 15,*  
30 *and November 15 of each year.*

31 *(2) The report shall include details of each toll bridge seismic*  
32 *retrofit project and all information necessary to clearly describe*  
33 *the status of the project, including, but not limited to, all of the*  
34 *following:*

35 *(A) A progress report.*

36 *(B) The baseline budget for support and capital outlay*  
37 *construction costs that the department assumed at the time that*  
38 *the act amending this section in the first year of the 2005-06*  
39 *Regular Session was enacted.*

1 (C) The current or projected budget for support and capital  
2 outlay construction costs.

3 (D) Expenditures to date for support and capital outlay  
4 construction costs.

5 (E) A comparison of the current or projected schedule and the  
6 baseline schedule that was assumed at the time that the act  
7 amending this section in the first year of the 2005-06 Regular  
8 Session was enacted.

9 (F) A summary of milestones achieved during the quarterly  
10 period and any issues identified and actions taken to address  
11 those issues.

12 ~~(h)~~

13 (j) (1) Commencing on January 1, 2004, and quarterly  
14 thereafter until completion of all applicable projects, the  
15 department shall provide quarterly seismic reports to the  
16 transportation committees of both houses of the Legislature and  
17 to the commission for other seismic retrofit programs no later  
18 than February 15, May 15, August 15, and November 15 of each  
19 year.

20 (2) The reports shall include all of the following:

21 (A) A progress report for each program.

22 (B) The program baseline budget for support and capital  
23 outlay construction costs.

24 (C) The current or projected program budget for support and  
25 capital outlay construction costs.

26 (D) Expenditures to date for support and capital outlay  
27 construction costs.

28 (E) A comparison of the current or projected schedule and the  
29 baseline schedule.

30 (F) A summary of milestones achieved during the quarterly  
31 period and any issues identified and actions taken to address  
32 those issues.

33 SEC. 5. Section 31010 of the Streets and Highways Code is  
34 amended to read:

35 31010. (a) There is hereby imposed a seismic retrofit  
36 surcharge equal to one dollar (\$1) per vehicle for passage on the  
37 Bay Area bridges, except for vehicles that are authorized toll-free  
38 passage on these bridges. *The seismic retrofit surcharge shall be*  
39 *increased to two dollars (\$2) per vehicle, effective July 1, 2008.*

(b) Funds generated by subdivision (a) may not be used to repay nontoll revenues committed to fund projects identified in paragraph (2) of subdivision (a) of Section 188.5, *except as provided in subdivision (f) of Section 188.5*. Following the date of the ~~submission of the final report required in subdivision (g) of Section 188.5~~ certification required pursuant to Section 180.7, funds generated pursuant to subdivision (a) that are in excess of those needed to meet the toll commitment as specified by paragraph (4) of subdivision (b) of Section 188.5, including annual debt service payments, if any, required to support the commitment, and other elements required to meet the obligations of the department's financing plan, shall be available ~~to the authority for funding, consistent with Sections 30913 and 30914, the purposes and projects described in those sections. The department shall transfer to the authority on an annual basis the funds made available to the authority under this subdivision. for the following purposes in the following priority order:~~

(1) *Four hundred sixty million dollars (\$460,000,000) to the authority for funding, consistent with Sections 30913 and 30914, the purposes and projects described in those sections.*

(2) (A) *Up to one hundred million dollars (\$100,000,000) to the department for funding projects in the Antioch Bridge corridor.*

(B) *Up to one hundred million dollars (\$100,000,000) to the department for funding projects in the Dumbarton Bridge corridor.*

(C) *Up to one hundred million dollars (\$100,000,000) to the department for funding projects in the San Mateo-Hayward Bridge corridor.*

(3) *Any remaining funds shall be used by the department to fund projects in the Bay Area toll bridge corridors.*

(c) ~~(1)~~ The department shall have the authority to increase the seismic retrofit surcharge if the bank finds and the Department of Finance confirms that ~~both of the following apply:~~

~~(A) Circumstances~~ *circumstances* exist that have resulted in a reduction in the funds generated by subdivision (a) so as to jeopardize the payment of debt service for which toll revenues are authorized.

~~(B) Bonds issued under Chapter 4.3 (commencing with Section 30950) shall not be impaired solely by action taken under~~

1 ~~this section, as evidenced by confirmation of the then existing~~  
2 ~~ratings on those bonds, by the rating agencies then rating the~~  
3 ~~bonds.~~

4 ~~(2) The requirement for the funding described in subparagraph~~  
5 ~~(B) of paragraph (1) shall not apply if the voters approve an~~  
6 ~~increase in the toll rate pursuant to subdivision (b) of Section~~  
7 ~~30921.~~

8 (d) The term of the financing plan developed by the  
9 department under Section 31071, for the purposes of funding the  
10 projects described in Sections ~~30913 and 31010, 30913, and~~  
11 ~~30914~~, is extended for a period of 40 years commencing on  
12 January 1, ~~2008~~ 2011.

13 (e) This section shall remain in effect only until the date that  
14 the California Transportation Commission notifies the Secretary  
15 of State that sufficient funds have been generated to meet the  
16 obligations identified in ~~paragraph (4) of~~ subdivision (b) of  
17 Section 188.5, and repayment of any outstanding debt secured by  
18 tolls, and as of that date is repealed. The California  
19 Transportation Commission shall provide the notice described in  
20 this subdivision upon making the determination set forth in this  
21 subdivision.

22 SEC. 6. Section 31010.1 is added to the Streets and Highways  
23 Code, to read:

24 31010.1. (a) The Metropolitan Transportation Commission  
25 may meet its obligations pursuant to ~~paragraph (10) of~~  
26 ~~subdivision (b)~~ *subdivision (e)* of Section 188.5 through any of  
27 the following:

28 (1) By allocating eligible state and federal funds available to  
29 the Metropolitan Transportation Commission for allocation to  
30 transportation projects, including, but not limited to, regional  
31 transportation improvement program funds.

32 ~~(2) By adopting an increased bonding limit relative to seismic~~  
33 ~~retrofit surcharge bridge toll revenues available pursuant to~~  
34 ~~Chapter 4.5 (commencing with Section 31000).~~

35 ~~(3) By restructuring any existing toll bridge debt.~~

36 ~~(4)~~

37 (2) From resources made available from Regional Measure 1  
38 or 2.

39 ~~(5) By imposing an additional seismic surcharge.~~

1 (3) *By increasing tolls imposed pursuant to Chapter 4*  
2 *(commencing with Section 30910) of Division 17 in an amount*  
3 *and for a period of time that it deems necessary and sufficient to*  
4 *meet its obligations pursuant to subdivision (e) of Section 188.5.*

5 (b) Funds generated by paragraph ~~(5)~~ (3) of subdivision (a)  
6 may only be used by the department to fund projects identified in  
7 paragraph (2) of subdivision (a) of Section 188.5. ~~Following the~~  
8 ~~date of the submission of the final report required in subdivision~~  
9 ~~(g) of Section 188.5, funds generated pursuant to subdivision (a)~~  
10 ~~that are in excess of those needed to meet the toll commitment as~~  
11 ~~specified by paragraph (10) of subdivision (b) of Section 188.5,~~  
12 ~~including annual debt service payments, if any, required to~~  
13 ~~support the commitment, and other elements required to meet the~~  
14 ~~obligations of the department's financing plan, shall be available~~  
15 ~~for transportation improvements within the bridge corridors, for~~  
16 ~~those bridges identified in Section 188.5, as recommended by the~~  
17 ~~Metropolitan Transportation Commission and approved by the~~  
18 ~~department.~~

19 (c) The Metropolitan Transportation Commission shall have  
20 the power to implement the provisions of this section.

21 (d) Nothing in this section shall impair the payment of debt  
22 service *on bonds issued by the California Infrastructure and*  
23 *Economic Development Bank pursuant to Chapter 4.26*  
24 *(commencing with Section 31070) for which toll revenues are*  
25 *authorized.*

26 ~~SEC. 7. Section 31010.2 is added to the Streets and Highways~~  
27 ~~Code, to read:~~

28 ~~31010.2. The Metropolitan Transportation Commission,~~  
29 ~~when imposing tolls and seismic surcharges, may implement~~  
30 ~~value or variable pricing, upon approval of the department.~~

31 ~~SEC. 8.~~

32 ~~SEC. 7. Section 31015 of the Streets and Highways Code is~~  
33 ~~repealed.~~

34 ~~SEC. 9.~~

35 ~~SEC. 8. Section 31070 of the Streets and Highways Code is~~  
36 ~~repealed.~~

37 ~~SEC. 10. Section 31074 is added to the Streets and Highways~~  
38 ~~Code, to read:~~

39 ~~31074. (a) Pursuant to subdivision (c) of Section 180.1, the~~  
40 ~~department may let design-build contracts for the design and~~

1 ~~construction of projects identified in Section 188.5. For the~~  
2 ~~purpose of this chapter, these projects shall be deemed public~~  
3 ~~works.~~

4 ~~(b) For purposes of this section, “design-build” means a~~  
5 ~~procurement process in which both the design and construction~~  
6 ~~of a project are procured from a single entity.~~

7 ~~(c) For purposes of this section, “design-build entity” means a~~  
8 ~~partnership, corporation, or other legal entity that is able to~~  
9 ~~provide appropriately licensed contracting, architectural, and~~  
10 ~~engineering services as needed.~~

11 ~~(d) For the purposes of this section, “best value” means a~~  
12 ~~value determined by objective criteria and may include, but is not~~  
13 ~~limited to, price, features, functions, life-cycle costs, and other~~  
14 ~~criteria deemed appropriate by the department.~~

15 ~~(e) Prior to contracting for the procurement of state~~  
16 ~~transportation projects, the Director of Transportation shall do~~  
17 ~~both of the following:~~

18 ~~(1) Prepare a program setting forth the scope of the project~~  
19 ~~that may include, but is not limited to, the size, type, and desired~~  
20 ~~design character of the transportation projects and site,~~  
21 ~~performance specifications covering the quality of materials,~~  
22 ~~equipment, and workmanship, or any other information deemed~~  
23 ~~necessary to describe adequately the state’s needs. The~~  
24 ~~performance specifications shall be prepared by a design~~  
25 ~~professional duly licensed and registered in the state.~~

26 ~~(2) (A) Establish a competitive prequalification and selection~~  
27 ~~process for design-build entities, including any subcontractors~~  
28 ~~listed at the time of bid, that clearly specifies the prequalification~~  
29 ~~criteria, as well as recommends the manner in which the winning~~  
30 ~~entity will be selected.~~

31 ~~(B) Prequalification shall be limited to consideration of all of~~  
32 ~~the following criteria:~~

33 ~~(i) Possession of all required licenses, registration, and~~  
34 ~~credentials in good standing that are required to design and~~  
35 ~~construct the project.~~

36 ~~(ii) Submission of evidence that establishes that the~~  
37 ~~design-build entity members have completed, or demonstrated~~  
38 ~~the capability to complete, projects of similar size, scope, or~~  
39 ~~complexity, and that proposed key personnel have sufficient~~

1 experience and training to competently manage and complete the  
2 design and construction of the project.

3 ~~(iii) Submission of a proposed project management plan that~~  
4 ~~establishes that the design-build entity has the experience,~~  
5 ~~competence, and capacity needed to effectively complete the~~  
6 ~~project.~~

7 ~~(iv) Submission of evidence that establishes that the~~  
8 ~~design-build entity has the capacity to obtain all required~~  
9 ~~payment and performance bonding, liability insurance, and errors~~  
10 ~~and omissions insurance, as well as a financial statement that~~  
11 ~~assures the department that the design-build entity has the~~  
12 ~~capacity to complete the project.~~

13 ~~(v) Provision of a declaration certifying that applying~~  
14 ~~members of the design-build entity have not had a surety~~  
15 ~~company finish work on any project within the last five years.~~

16 ~~(vi) Provision of information and a declaration providing~~  
17 ~~details concerning all of the following:~~

18 ~~(I) Any construction or design claim or litigation totaling more~~  
19 ~~than five hundred thousand dollars (\$500,000) or 5 percent of the~~  
20 ~~annual value of work performed, whichever is less, settled~~  
21 ~~against any member of the design-build entity over the last five~~  
22 ~~years.~~

23 ~~(II) Serious violations of the Occupational Safety and Health~~  
24 ~~Act, as provided in Part 1 (commencing with Section 6300) of~~  
25 ~~Division 5 of the Labor Code, settled against any member of the~~  
26 ~~design-build entity.~~

27 ~~(III) Violations of federal or state law, including, but not~~  
28 ~~limited to, those laws governing the payment of wages, benefits,~~  
29 ~~or personal income tax withholding, or of Federal Insurance~~  
30 ~~Contributions Act (FICA) withholding requirements, state~~  
31 ~~disability insurance withholding, or unemployment insurance~~  
32 ~~payment requirements, settled against any member of the~~  
33 ~~design-build entity over the last five years. For the purposes of~~  
34 ~~this subclause, only violations by a design-build member as an~~  
35 ~~employer shall be deemed applicable, unless it is shown that the~~  
36 ~~design-build entity member, in his or her capacity as an~~  
37 ~~employer, had knowledge of his or her subcontractor's violations~~  
38 ~~or failed to comply with the conditions set forth in subdivision~~  
39 ~~(b) of Section 1775 of the Labor Code.~~



1 ~~(IV) Information required by Section 10162 of the Public~~  
2 ~~Contract Code.~~

3 ~~(V) Violations of the Contractors' State License Law (Chapter~~  
4 ~~9 (commencing with Section 7000) of Division 3 of the Business~~  
5 ~~and Professions Code), excluding alleged violations or~~  
6 ~~complaints.~~

7 ~~(VI) Any conviction of any member of the design-build entity~~  
8 ~~of submitting a false or fraudulent claim to a public agency over~~  
9 ~~the last five years.~~

10 ~~(VII) Provision of a declaration that the design-build entity~~  
11 ~~will comply with all other provisions of law applicable to the~~  
12 ~~project, including, but not limited to, the requirements of Chapter~~  
13 ~~1 (commencing with Section 1720) of Part 7 of Division 2 of the~~  
14 ~~Labor Code.~~

15 ~~(C) Any declaration required under subparagraph (B) shall~~  
16 ~~state that reasonable diligence has been used in its preparation~~  
17 ~~and that it is true and complete to the best of the signer's~~  
18 ~~knowledge. A person who certifies as true any material matter~~  
19 ~~that he or she knows to be false is guilty of a misdemeanor and~~  
20 ~~shall be punished by not more than one year in a county jail, by a~~  
21 ~~fine of not more than five thousand dollars (\$5,000), or by both~~  
22 ~~that fine and imprisonment.~~

23 ~~(D) The department may use a design-build competition based~~  
24 ~~upon best value and other criteria as herein provided. Such a~~  
25 ~~design-build competition shall be based upon performance, price,~~  
26 ~~and other criteria set forth by the department in the solicitation of~~  
27 ~~proposals. The department shall establish technical criteria and~~  
28 ~~methodology, including price, to evaluate proposals and shall~~  
29 ~~describe the criteria and methodology in the request for~~  
30 ~~design-build proposals. Award shall be made to the design-build~~  
31 ~~entity whose proposal is judged as providing the best value in~~  
32 ~~meeting the interest of the department and the objectives of the~~  
33 ~~project.~~

34 ~~(f) The Legislature recognizes that the design-build entity is~~  
35 ~~charged with performing both design and construction. Because~~  
36 ~~a design-build contract may be awarded prior to the completion~~  
37 ~~of the design, it is often impracticable for the design-build entity~~  
38 ~~to list all subcontractors at the time of the award. As a result, the~~  
39 ~~subcontractor listing requirements contained in Chapter 4~~  
40 ~~(commencing with Section 4100) of Part 1 of Division 2 of the~~

~~Public Contract Code can create a conflict with the implementation of the design-build process by requiring all subcontractors to be listed at a time when a sufficient set of plans may not be available. It is the intent of the Legislature to establish a clear process for the selection and award of subcontracts entered into pursuant to this section in a manner that retains protection for subcontractors while enabling design-build projects to be administered in an efficient fashion. Therefore, all of the following requirements shall apply to subcontractors; licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, that are employed on design-build projects undertaken pursuant to this section:~~

~~(1) The department, in each design-build request for proposal, may identify the types of subcontractors, by subcontractor license classification, that will be listed by the design-build entity at the time of the bid. In selecting the subcontractors that will be listed by the design-build entity, the department shall limit the identification to only those license classifications deemed essential for proper completion of the project. In no event, however, may the department specify more than five licensed subcontractor classifications. In addition, at its discretion, the design-build entity may list an additional two subcontractors, identified by subcontractor license classification, that will perform design or construction work, or both, on the project. In no event shall the design-build entity list at the time of bid a total amount of subcontractors that will perform design or construction work, or both, in a total of more than seven subcontractor license classifications on a project. All subcontractors that are listed at the time of bid shall be afforded all of the protection contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code. All subcontracts that were not listed by the design-build entity at the time of bid shall be awarded in accordance with paragraph (2).~~

~~(2) All subcontracts that were not to be performed by the design-build entity in accordance with paragraph (1) shall be competitively bid and awarded by the design-build entity, in accordance with the design-build process set forth by the~~

1 department in the design-build package. The design-build entity  
2 shall do all of the following:

3 (A) Provide public notice of the availability of work to be  
4 subcontracted in accordance with Section 10140 of the Public  
5 Contract Code.

6 (B) Provide a fixed date and time on which the subcontracted  
7 work will be awarded in accordance with Section 10141 of the  
8 Public Contract Code.

9 (C) As authorized by the department, establish reasonable  
10 prequalification criteria and standards, limited in scope to those  
11 detailed in paragraph (2) of subdivision (e).

12 (D) Provide that the subcontracted work shall be awarded to  
13 the lowest responsible bidder.

14 (g) Any design-build entity that is selected to design and build  
15 a project pursuant to this section shall possess or obtain sufficient  
16 bonding consistent with applicable provisions of the Public  
17 Contract Code. Nothing in this section shall prohibit a general or  
18 engineering contractor from being designated the lead entity on a  
19 design-build entity for the purposes of purchasing necessary  
20 bonding to cover the activities of the design-build entity.

21 (h) Any payment or performance bond written for the  
22 purposes of this section shall use a bond form developed by the  
23 department. In developing the bond form, the department shall  
24 consult with the surety industry to achieve a bond form that is  
25 consistent with surety industry standards, while protecting the  
26 interests of the state.

27 SEC. 11. (a) No reimbursement is required by this act  
28 pursuant to Section 6 of Article XIII B of the California  
29 Constitution because a local agency or school district has the  
30 authority to levy service charges, fees, or assessments sufficient  
31 to pay for the program or level of service mandated by this act,  
32 within the meaning of Section 17556 of the Government Code.

33 (b) No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the  
38 penalty for a crime or infraction, within the meaning of Section  
39 17556 of the Government Code, or changes the definition of a

1 ~~crime within the meaning of Section 6 of Article XIII B of the~~  
2 ~~California Constitution.~~

3 *SEC. 9. No reimbursement is required by this act pursuant to*  
4 *Section 6 of Article XIII B of the California Constitution because*  
5 *a local agency or school district has the authority to levy service*  
6 *charges, fees, or assessments sufficient to pay for the program or*  
7 *level of service mandated by this act, within the meaning of*  
8 *Section 17556 of the Government Code.*

9 ~~SEC. 12.~~

10 *SEC. 10.* This act is an urgency statute necessary for the  
11 immediate preservation of the public peace, health, or safety  
12 within the meaning of Article IV of the Constitution and shall go  
13 into immediate effect. The facts constituting the necessity are:

14 To ensure that the east span of the San Francisco-Oakland Bay  
15 Bridge, a lifeline structure, is completed as quickly as possible to  
16 withstand a seismic event, and to fund other seismic  
17 improvements to various toll bridges as quickly as possible, it is  
18 necessary that this act take effect immediately.

19  
20  
21 CORRECTIONS: \_\_\_\_\_

22 Text-Pages 10, 11, and 20.  
23 \_\_\_\_\_